gressional action and not judicial interpretation. Policyholders and creditors as distinguished from investors are not persons covered by sections 17(a) or 10(b) as they are presently written.

Petitioner's complaint as amended by his briefs in the Courts below alleges a claim over which the federal courts should not have jurisdiction:

> An unrestricted application of rule 10b-5 is, however, also inconsistent with the purposes of the rule. The most liberal view, often expressed by the Commission, is that *anyone* who is damaged by a fraudulent transaction should be allowed to seek relief under 10b-5. This view would lead to almost unlimited liability. As an illustration, assume a defendant defrauds XYZ Corporation in a securities transaction, causing XYZ Corporation to go into bankruptcy. Following the SEC viewpoint, the stockholders of the corporation would be permitted to recover the loss in market value of their stock and, perhaps, even the creditors of the corporation would be permitted to recover their loan losses. Such broad coverage under section 10(b) was not the intent of Congress; the antifraud provisions were adopted to protect the trading process in the securities markets, not to provide a federal remedy for every injury that might in any way be connected with a securities fraud.*

*Boone and McGowan, *Standing to Sue Under SEC Rule 10b-5*, 49 Texas L. Rev. 617, 622 (1971)

CONCLUSION

The judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

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August 31, 1971

No. 70-60

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1971

Superintendent of Insurance of the State of New York, as Liquidator of MANHATTAN CASUALTY COMPANY,

Petitioner,

v.

BANKERS LIFE AND CASUALTY COMPANY, ET AL.,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR RESPONDENT BANKERS LIFE AND CASUALTY COMPANY

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Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR RESPONDENT BANKERS LIFE AND CASUALTY COMPANY

Preliminary Statement

This brief is submitted on behalf of respondent Bankers Life and Casualty Company ("Bankers Life") in answer to the brief of petitioner, the Liquidator of Manhattan Casualty Company ("Manhattan"), and the brief for the Securities and Exchange Commission ("the SEC") as